

TWENTY-THIRD DAY
(Monday, August 12, 1991)

The Senate met at 7:10 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

A quorum was announced present.

Senator Chet Brooks offered the invocation as follows:

Almighty God, we thank You for the privilege of living in this Nation and this State and for being able to debate freely and openly and make choices for our people. Help us remember always that all the Members of this Body have the same election certificate and the same rights, and, Almighty God, help us do what is best for our people. Please forgive us our sins and help us remember that our job should be judged in accordance with Thy will. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

COMMITTEE SUBSTITUTE
HOUSE BILL 11 ON THIRD READING

Senator Glasgow moved that the regular order of business be suspended and that C.S.H.B. 11 be placed on its third reading and final passage.

C.S.H.B. 11, Relating to raising revenue for the operation of state and local government and to the imposition, application, rates, collection, and administration of various fees and taxes and to the allocation of revenue from fees and taxes.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Brown, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Sibley.

The bill was read third time and was passed by the following vote: Yeas 24, Nays 7. (Same as previous roll call)

REASON FOR VOTE

I realize that the Tax Bill (C.S.H.B. 11) was a carefully crafted compromise designed to pass both Houses of the Legislature. While I believe it is necessary to vote for additional funds to insure a quality education for the children of my district and basic human services, I have great misgivings over the particular section of this bill which represents a serious departure from long-standing public utility regulatory law in Texas (Section 16.072). Furthermore, my concerns are compounded by the

fact that this particular section purports to be revenue neutral, but in fact it is not neutral to the utility ratepayers of this State.

ROSSON

HOUSE BILL 203 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business, Senate Rules 7.14, 7.26(a) and 7.26(b) were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 203, Making appropriations for and directing payment of certain miscellaneous claims and judgments out of funds designated herein; requiring approval of the claims in the manner specified in this Act before payment is made.

(Senator Brooks in Chair)

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 203 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 203** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 54 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 54, Relating to the establishment and operation of a state lottery; providing penalties; making an appropriation.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 54** as follows:

(1) In Section 1.02(4) of the State Lottery Act, strike "2.02(f)" and substitute "2.02(g)".

(2) In Section 1.03(b) of the State Lottery Act, strike "2.02(f)" and substitute "2.02(g)".

(3) In Section 1.04 of the State Lottery Act, strike "150th day" and substitute "240th day".

(4) In Section 2.01(f) of the State Lottery Act, immediately before "Section 13" insert "Subsection (g) of this section or by".

(5) In Section 2.01 of the State Lottery Act, strike Subsection (g) and insert the following:

(g) The comptroller may transfer to the division amounts appropriated to the comptroller for purposes other than the administration of this Act. If the comptroller proposes to transfer amounts under this subsection, the comptroller shall notify the Legislative Budget Board in writing of the amount of the proposed

transfer. The comptroller may not make the proposed transfer unless the board approves it. If the board does not approve or disapprove the proposed transfer before the 10th day after the date that the comptroller notifies the board of the proposed transfer, the board is considered to have approved the transfer. If the board disapproves the proposed transfer, the comptroller may request the governor to make a proposal for the transfer of an appropriation as provided by Chapter 317, Government Code.

(h) The comptroller shall reimburse any amount of an appropriation transferred under Subsection (g) of this section to the account or fund from which it was transferred. The reimbursement must:

(1) be made from funds received by the comptroller for license fees and ticket sales under this Act; and

(2) be made not later than the first anniversary of the date of the transfer.

(i) The comptroller's authority to transfer funds to the division under Subsection (g) of this section expires September 1, 1993. This subsection and Subsections (g) and (h) of this section expire January 1, 1995.

(j) Division employees are specifically exempted from the Position Classification Act of 1961 (Article 6252-11, Vernon's Texas Civil Statutes). The salary of these employees shall be set by the director.

(6) Reletter Section 2.01(h) of the State Lottery Act as Section 2.01(k).

(7) In Section 2.01 of the State Lottery Act, insert the following new subsection:

(l) The Legislature intends that advertisements or promotions sponsored by the comptroller's office or the division for the lottery not be of a nature that unduly influences any person to purchase a lottery ticket or number.

(8) In Section 2.02 of the State Lottery Act, strike Subsection (c) and substitute the following:

(c) The comptroller shall adopt rules governing the:

(1) security for the lottery and the division, including the development of an internal security plan;

(2) the apportionment of the total revenues from the sale of tickets and from all other sources in the amounts provided by this Act;

(3) the enforcement of prohibitions on the sale of tickets to or by an individual younger than 18 years of age; and

(d) The comptroller may adopt rules governing the establishment and operation of the lottery, including rules governing:

(1) the type of lottery games or activities to be conducted;

(2) the price of each ticket;

(3) the number of winning tickets and amount of the prize paid on each winning ticket;

(4) the frequency of the drawing or selection of a winning ticket;

(5) the number and types of locations at which a ticket may be sold;

(6) the method to be used in selling a ticket;

(7) the use of vending machines or electronic or mechanical devices of any kind, other than machines or devices that dispense currency or coins as prizes;

(8) the manner of paying a prize to the holder of a winning ticket;

(9) the investigation of possible violations of this Act or any rule adopted under this Act;

(10) the means of advertising to be used for the lottery;

(11) the qualifications of vendors of lottery services or equipment;

(12) the confidentiality of information relating to the operation of the lottery, including:

(A) trade secrets;
 (B) security measures, systems, or procedures;
 (C) security reports;
 (D) bids or other information regarding the division's contracts, if disclosure of the information would impair the division's ability to contract for facilities, goods, or services on terms favorable to the division;
 (E) personnel information unrelated to compensation, duties, qualifications, or responsibilities; and
 (F) information obtained by division security officers or investigators;

(13) the development and availability of a model agreement governing the division of a prize among multiple purchasers of a winning ticket purchased through a group purchase or pooling arrangement;

(14) the criteria to be used in evaluating bids for contracts for lottery facilities, goods, and services; or

(15) any other matter necessary or desirable as determined by the comptroller, to promote and ensure:

(A) the integrity, security, honesty, and fairness of the operation and administration of the lottery; and

(B) the convenience of players and holders of winning tickets.

(9) Reletter the subsequent subsections of Section 2.02 of the State Lottery Act accordingly.

(10) In Section 2.02(h) of the State Lottery Act (redesignated by this amendment as Section 2.02(i)), strike "(g)" and substitute "(h)".

(11) In Section 2.04(a) of the State Lottery Act, strike "goods and" and substitute "facilities, goods, and", and strike "maximizing net revenues to" and substitute "producing revenues for".

(12) In Section 2.04(b) of the State Lottery Act, strike "goods and" and substitute "facilities, goods, or".

(13) In Section 2.04(e) of the State Lottery Act, strike "provision of" and substitute "acquisition or provision of facilities,".

(14) In Section 2.04(f)(1) of the State Lottery Act, between "acquiring" and "supplies", insert "facilities,".

(15) In Section 2.04(f)(2) of the State Lottery Act, between "acquisition of" and "supplies", insert "facilities,".

(16) In Section 2.04(g) of the State Lottery Act, strike "provision of" and substitute "acquisition or provision of facilities,".

(17) In Section 2.04(i) of the State Lottery Act, strike "provision of" and substitute "acquisition or provision of facilities,".

(18) In Section 2.06 of the State Lottery Act, strike "or other lottery activities".

(19) In Article 2 of the State Lottery Act, strike Section 2.07 and substitute the following:

Sec. 2.07. PUBLICITY OF INDIVIDUALS PROHIBITED. A state officer or employee, including the comptroller, the director, or an officer or employee of the comptroller's office or the division, may not appear in an advertisement or promotion for the lottery that is sponsored by the comptroller's office or the division or in a televised lottery drawing. An advertisement or promotion for the lottery may not contain the likeness or name of a state officer or employee, including the comptroller, the director, or an officer or employee of the comptroller's office or the division. In connection with providing security for the lottery, this section shall not prohibit a security officer or investigator employed by the division from appearing in a televised lottery drawing or other promotion for the lottery that is sponsored by the comptroller's office or the division. Notwithstanding the provisions of this

section, the director may designate an employee of the division to participate in a promotional event, the purpose of which is to award a prize.

(20) In Section 2.13(1) of the State Lottery Act, strike "relating to" and substitute "designed to ensure the integrity and security of".

(21) In Section 2.13(2) of the State Lottery Act, strike "relating to" and substitute "of a nature that is designed to ensure the integrity and security of".

(22) Strike Section 2.13(3) of the State Lottery Act and substitute the following:

(3) the street address and telephone number of a prize winner, if the prize winner has not consented to the release of the information.

(23) In Article 2 of the State Lottery Act, after Section 2.13, insert the following:

Sec. 2.14. DEPARTMENT OF PUBLIC SAFETY RECORDS. (a) Except as otherwise provided by this Act, all files, records, information, compilations, documents, photographs, reports, summaries, and reviews of information and related matters collected, retained, or compiled by the Department of Public Safety in the discharge of its duties under this Act are confidential and are not subject to public disclosure. Each of those items is subject to discovery by a person that is the subject of the item.

(b) An investigation report or other document submitted by the Department of Public Safety to the division becomes part of the investigative files of the division and is subject to discovery by a person that is the subject of the investigation report or other document.

(c) Information that is in the form available to the public is not privileged or confidential under this section and is subject to public disclosure.

(24) In Section 3.01(b) of the State Lottery Act, strike "by the comptroller" and substitute "by the comptroller, provide information necessary to determine the applicant's eligibility for a license under Section 3.02 of this Act, and provide other information considered necessary by the comptroller".

(25) At the end of Section 3.01(b) of the State Lottery Act, insert the following: "Applications for licenses must be available for public inspection during regular office hours."

(26) In Section 3.02(a)(4)(C)(ii) of the State Lottery Act, strike "state" and substitute "state, other than land used as a mass transportation facility that is used by commercial carriers".

(27) In Section 3.03(a)(3) of the State Lottery Act, strike "2.02(i)" and substitute "2.02(j)".

(28) Strike Section 3.06(a) of the State Lottery Act and substitute the following:

(a) The comptroller is entitled to conduct an investigation of and is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation Identification Division, or another law enforcement agency to assist in the investigation of:

(1) a sales agent or an applicant for a sales agent license;

(2) a person required to be named in a license application;

(3) a lottery operator or prospective lottery operator;

(4) an employee of a lottery operator or prospective lottery operator, if the employee is or will be directly involved in lottery operations;

(5) a person who manufactures or distributes lottery equipment or supplies, or a representative of a person who manufactures or distributes lottery equipment or supplies offered to the lottery;

(6) a person who has submitted a written bid or proposal to the division in connection with the procurement of goods or services by the division, if the amount of the bid or proposal exceeds \$500.;

(7) an employee or other person who works for or will work for a sales agent or an applicant for a sales agent license;

(8) a person who proposes to enter into or who has a contract with the division to supply goods or services to the division; or

(9) if a person described in Subdivisions (1) through (8) of this subsection is not an individual, an individual who:

(A) is an officer or director of the person;

(B) holds more than 10 percent of the stock in the person;

(C) holds an equitable interest greater than 10 percent in the person;

(D) is a creditor of the person who holds more than 10 percent of the person's outstanding debt;

(E) is the owner or lessee of a business that the person conducts or through which the person will conduct lottery-related activities;

(F) shares or will share in the profits, other than stock dividends, of the person;

(G) participates in managing the affairs of the person; or

(H) is an employee of the person who is or will be involved in:

(i) selling tickets; or

(ii) handling money from the sale of tickets.

(29) Strike Section 3.06(b) of the State Lottery Act and substitute the following:

(b) The comptroller shall conduct an investigation of and obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation Identification Division, or another law enforcement agency to assist in the investigation of:

(1) the director or a prospective director of the division; or

(2) an employee or prospective employee of the division.

(c) Not later than one year after the date of each renewal, the comptroller shall obtain criminal history record information maintained by the Department of Public Safety on a sales agent whose license is renewed under Section 3.01(g) of this Act.

(30) Reletter the subsequent subsections of Section 3.06 of the State Lottery Act accordingly.

(31) In Sections 3.06(c) and (d), State Lottery Act, (redesignated by this amendment as Sections 3.06(d) and (e)), strike "complete set" each time it appears and substitute "complete legible set".

(32) In Section 3.06 of the State Lottery Act, insert the following new subsections:

(m) The director may obtain information relating to a person's qualification for licensing, employment, or contracting under this Act from the Internal Revenue Service under a contract between the comptroller and the Internal Revenue Service on:

(1) a sales agent or an applicant for a sales agent license;

(2) an employee or prospective employee of the division;

(3) a person required to be named in a license application;

(4) a lottery operator or prospective lottery operator;

(5) an employee of a lottery operator or prospective lottery operator, if the employee is or will be directly involved in lottery operations;

(6) a person who manufactures or distributes lottery equipment or supplies, or a representative of a person who manufactures or distributes lottery equipment or supplies offered to the lottery;

(7) a person who has submitted a written bid or proposal to the division in connection with the procurement of goods or services by the division;

(8) an employee or other person who works for or will work for a sales agent or an applicant for a sales agent license; or

(9) a person who proposes to enter into or who has a contract with the division to supply goods or services to the division.

(n) The director may award a contract for lottery supplies or services, including a contract under Section 2.02(g) of this Act, pending the completion of any investigation authorized by this Act. A contract awarded under this subsection must include a provision permitting the director to terminate the contract without penalty if the investigation reveals that the person to whom the contract is awarded would not be eligible for a sales agent license under Section 3.02 of this Act. The director's authority to award a contract under this subsection expires September 1, 1993. This subsection expires January 1, 1995.

(o) The comptroller shall obtain criminal history record information maintained by the Department of Public Safety on any person receiving a temporary license under Section 3.04 of this Act not later than one year after the date of issuance of the temporary license. This subsection expires September 1, 1993.

(p) All fingerprints submitted to the Department of Public Safety must be on a form prescribed by the Department of Public Safety.

(33) Strike Section 4.02(d) of the State Lottery Act and substitute the following:

(d) A sales agent or an employee of a sales agent may not intentionally or knowingly sell or offer to sell a ticket to an individual that the person knows is younger than 18 years of age.

(34) Strike Section 4.02(h) of the State Lottery Act and substitute the following:

(h) A person may not purchase a ticket:

(1) with a food stamp coupon issued under the food stamp program administered under Chapter 33, Human Resources Code;

(2) with a credit card or a debit card;

(3) over the telephone; or

(4) by mail-order sales.

(35) In Article 4 of the State Lottery Act, between Sections 4.04 and 4.05, insert the following:

Sec. 4.045. FALSE, INCORRECT, OR DECEPTIVE STATEMENT. (a) A person commits an offense if the person intentionally, knowingly, recklessly, or with criminal negligence makes a material and false, incorrect, or deceptive statement to a person conducting an investigation or exercising discretion under this Act or a rule adopted under this Act.

(b) In this section, "statement" includes:

(1) a written or oral statement; and

(2) a sworn or unsworn statement.

(c) An offense under this section is a Class A misdemeanor.

(36) Strike Section 5.01(g) of the State Lottery Act and substitute the following:

(g) A sales agent is liable to the division for all tickets accepted or generated by the sales agent or any employee or agent of the sales agent, and tickets shall be deemed to have been purchased by the sales agent unless returned to the division within the time and manner prescribed by the division. Money received by a sales agent from the sales of tickets, less the amount retained for prizes paid by the sales agent or for the agent's commission, if any, together with any unsold tickets, shall be held in trust for the benefit of the state before delivery to a lottery operator or the division or electronic transfer to the state treasury, and the sales agent is liable to the division for the full amount of the money or unsold tickets so held. If the sales agent is not an individual, each officer, director, or owner of the sales agent is

personally liable to the division for the full amount of the money or unsold tickets held in trust for the benefit of the state.

(37) In Section 5.03(g) of the State Lottery Act, before "Payment", insert "Except as otherwise provided by this subsection, the right of any person to a prize is not assignable."

(38) Insert the following section to the bill, appropriately numbered:

SECTION _____ (a) Section A, Article 2.05, Texas Business Corporation Act, is amended by adding Subdivision (4) to read as follows:

(4) It shall not contain the word "lottery."

(b) Section A, Article 2.04, Texas Non-Profit Corporation Act (Article 1396-2.04, Vernon's Texas Civil Statutes), is amended by adding Subdivision (3) to read as follows:

(3) It shall not contain the word "lottery."

(c) The secretary of state shall require each corporation or nonprofit corporation that has a name containing the word "lottery" and that is in existence on the effective date of this Act to change the name of the corporation not later than March 1, 1992.

(39) In SECTION 13(a) of the bill, strike "\$2,000,000" and substitute "\$12,000,000".

(40) At the end of SECTION 14(a) of the bill, insert "Of the amount appropriated under this subsection, \$100,000 shall be distributed to a nonprofit compulsive gambling research or treatment organization approved by the commission."

(41) At the end of SECTION 14(b) of the bill, insert "Of the amount appropriated under this subsection, \$100,000 shall be distributed to a nonprofit compulsive gambling research or treatment organization approved by the commission."

(42) At the end of SECTION 15 of the bill, insert "If H.B. 11, 72nd Legislature, 1st Called Session, 1991, is not enacted and does not become law, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.H.B. 54 by striking lines 60-65, page 1, and line 1, page 2, Section 1.03 of the State Lottery Act, to read as follows:

Sec. 1.03. APPLICATION OF SUNSET ACT. (a) The lottery division is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the division is abolished and this Act expires September 1, 1995.

(b) A contract between the division and a lottery operator under Section 2.02(f) of this Act must terminate on or before September 1, 1996.

The amendment was read.

On motion of Senator Montford, the amendment was tabled by a viva voce vote.

RECORD OF VOTE

Senator Leedom asked to be recorded as voting "Nay" on the motion to table the amendment.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.H.B. 54 by adding a new paragraph to Section 2.02(c), State Lottery Act, to read as follows:

(—) the enforcement of prohibitions on a person playing a lottery game or activity by telephone;

The amendment was read and was adopted by a viva voce vote.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 4

Amend C.S.H.B. 54 by deleting Section 4.01, State Lottery Act, and substituting the following:

Sec. 4.01. TICKETS. (a) The director shall prescribe the form of tickets. The overall estimated odds of winning a prize in a given game or activity must be printed on each ticket and prominently displayed in association with the sale of lottery projects, including print, radio, television, and any other form of advertising. The estimate must be based on reasonable projections and past experience.

The amendment was read.

On motion of Senator Leedom and by unanimous consent, the amendment was withdrawn.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 5

Amend C.S.H.B. 54 by adding a new subsection to Section 4.02, State Lottery Act, to read as follows:

(—) A person may not pay for a ticket with the proceeds of a check issued as a payment under the Texas Unemployment Compensation program as administered by Article 5221b-1, et seq. Vernon's Texas Civil Statutes.

The amendment was read.

On motion of Senator Leedom and by unanimous consent, the amendment was withdrawn.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 6

Amend C.S.H.B. 54 by adding a new subsection to Section 4.02, State Lottery Act, to read as follows:

(—) A person may not pay for a ticket with a credit card or debit card.

The amendment was read.

On motion of Senator Leedom and by unanimous consent, the amendment was withdrawn.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 7

Amend C.S.H.B. 54 by adding a new subsection to Section 4.02, State Lottery Act, to read as follows:

(—) A person may not pay for a ticket with the proceeds of a check issued as a payment under the Aid to Families with Dependent Children program administered under Chapter 31, Human Resources Code.

The amendment was read.

On motion of Senator Leedom and by unanimous consent, the amendment was withdrawn.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 8

Amend C.S.H.B. 54 by adding a new Subsection (i) to Section 4.02, State Lottery Act, to read as follows:

(i) A person may not sell a ticket within 1,000 feet of a primary or secondary school or a church, synagogue, or other house of worship. For the purpose of this subsection, distance is measured along the shortest straight line between the nearest property line of the establishment selling the ticket and the nearest property line of the school or house of worship, as appropriate.

The amendment was read.

On motion of Senator Truan, the amendment was tabled by a viva voce vote.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 9

1. Amend C.S.H.B. 54 by adding a new Paragraph (9) to Section 1.02, State Lottery Act, to read as follows:

(9) "Video lottery machine" means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, keno, and blackjack, utilizing a video display and microprocessors in which, by chance, the player may receive free games or credits that can be redeemed for cash.; and

2. Amend C.S.H.B. 54 by adding a new paragraph to Section 2.02(c), State Lottery Act, to read as follows:

(—) the enforcement of prohibitions against the use of video lottery machines.

The amendment was read.

(President in Chair)

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 15, Nays 14.

Yeas: Armbrister, Barrientos, Brooks, Carriker, Ellis, Glasgow, Harris of Tarrant, Krier, Moncrief, Montford, Parker, Rosson, Sims, Whitmire, Zaffirini.

Nays: Bivins, Brown, Green, Haley, Harris of Dallas, Henderson, Johnson, Leedom, Lyon, Ratliff, Sibley, Tejeda, Truan, Turner.

Absent: Dickson, Lucio.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 10

Amend C.S.H.B. 54 to add a new Section 2.05(c) as follows:

(c) The comptroller shall annually report to the legislature and the governor on the level of minority business participation as pertains to both the division's

contracts and the licensure of sales agents. The report shall include recommendations for the improvement of minority business opportunities in lottery-related business.

The amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 11

Amend C.S.H.B. 54 to add a new Section 2.05(a)(7) as follows:

(7) require all bidders or contractors, when appropriate, to include specific plans or arrangements to utilize subcontracts with minority businesses.

The amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 12

Amend C.S.H.B. 54 to add a new Section 3.01(a) as follows:

(a) The director shall attempt to license minority businesses as sales agents in at least 20 percent of the licenses issued. Implementation of this subsection must be consistent with the rest of this section.

Renumber subsequent sections appropriately.

The amendment was read and was adopted by a viva voce vote.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 13

Amend C.S.H.B. 54 on page 8, line 62, by adding to SECTION 3.01(f) the following:

"The director may not issue a license to a person unless the director finds that the location at which the person will sell lottery tickets is accessible to individuals with disabilities."

The amendment was read.

On motion of Senator Brooks and by unanimous consent, the amendment was withdrawn.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 14

Amend C.S.H.B. 54 as follows:

The director shall not issue a license to sell lottery tickets to applicants who fail to certify to the director the applicant's compliance with the federal Americans With Disabilities Act.

The amendment was read and was adopted by the following vote: Yeas 27, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Lucio, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejada, Turner, Whitmire, Zaffirini.

Nays: Green, Leedom, Truan.

Absent: Lyon.

Senator Turner offered the following amendment to the bill:

Floor Amendment No. 15

Amend C.S.H.B. 54 on page 13, line 13, by deleting the word “or” and substituting the word “and” in lieu thereof.

The amendment was read and was adopted by a viva voce vote.

Senator Turner offered the following amendment to the bill:

Floor Amendment No. 16

Amend C.S.H.B. 54 on page 2, line 63, after the word “rules” add:

to the extent they are not inconsistent with the Open Meetings Act (Article 6252-17, Vernon’s Texas Civil Statutes) and the Open Records Act (Article 6252-17a, Vernon’s Texas Civil Statutes)

The amendment was read and was adopted by a viva voce vote.

Senator Turner offered the following amendment to the bill:

Floor Amendment No. 17

Amend C.S.H.B. 54 on page 8, lines 13 and 14, by deleting Subsection (3) in its entirety.

The amendment was read and was adopted by a viva voce vote.

Senator Turner offered the following amendment to the bill:

Floor Amendment No. 18

Amend C.S.H.B. 54 on page 4, line 14, by deleting the word “not”.

The amendment was read.

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 17, Nays 13.

Yeas: Armbrister, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Harris of Tarrant, Harris of Dallas, Krier, Lucio, Moncrief, Montford, Parker, Rosson, Sims, Whitmire.

Nays: Barrientos, Brown, Green, Haley, Henderson, Leedom, Lyon, Ratliff, Sibley, Tejeda, Truan, Turner, Zaffirini.

Absent: Johnson.

(Senator Haley in Chair)

Senator Turner offered the following amendment to the bill:

Floor Amendment No. 19

Amend C.S.H.B. 54 on page 5, line 33, by deleting the word “not”.

The amendment was read.

On motion of Senator Turner and by unanimous consent, the amendment was withdrawn.

Senator Turner offered the following amendment to the bill:

Floor Amendment No. 20

Amend C.S.H.B. 54 on page 5, line 45, by deleting the word "not".

The amendment was read.

On motion of Senator Turner and by unanimous consent, the amendment was withdrawn.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 21

Amend C.S.H.B. 54 as follows:

(1) In Section 2.02(c) of the State Lottery Act, strike Subdivision (12) and renumber the subsequent subdivisions accordingly.

(2) In Section 2.02(c)(16) of the State Lottery Act, strike Paragraph (I) and reletter the subsequent paragraphs accordingly.

(3) In Section 2.05(a)(1)(B) of the State Lottery Act, strike "services, including advertising," and substitute "services".

(4) In Section 2.05(a)(4) of the State Lottery Act, strike "services, including advertising," and substitute "services".

(5) In Section 2.07 of the State Lottery Act, strike "An advertisement or" and substitute "a".

(6) In Section 2.07 of the State Lottery Act, strike "An advertisement or" and substitute "A".

(7) Immediately following Section 2.08 of the State Lottery Act, insert a new Section 2.08 to read as follows:

Sec. 2.08. USE OF FUNDS FOR ADVERTISING. State funds, including funds generated from lottery proceeds, may not be used to promote or advertise a lottery.

(8) Renumber the subsequent sections in Article 2 of the State Lottery Act accordingly.

(9) In Section 4.06(h)(7)(A) of the State Lottery Act, strike "supplies, services, or advertising;" and substitute "supplies or services;".

The amendment was read.

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 21, Nays 10.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Lucio, Moncrief, Montford, Rosson, Sims, Truan, Whitmire, Zaffirini.

Nays: Brown, Green, Haley, Leedom, Lyon, Parker, Ratliff, Sibley, Tejeda, Turner.

Senator Green offered the following amendment to the bill:

Floor Amendment No. 22

Amend C.S.H.B. 54 as follows:

(1) Between Sections 2.05 and 2.06 of the State Lottery Act, insert the following new Section 2.05:

Sec. 2.05. PREFERENCE FOR TEXAS BUSINESSES. (a) In all contracts for lottery equipment, supplies, services, and advertising, the division and each lottery operator shall give preference to equipment or supplies produced in this state

or services or advertising offered by bidders from this state, the cost to the state and quality being equal.

(b) If equipment or supplies produced in this state or services or advertising offered by a bidder from this state are not equal in cost and quality, then equipment or supplies produced in another state or services or advertising offered by a bidder from another state shall be given preference over foreign equipment, supplies, services, or advertising.

(2) Renumber the subsequent sections of Article 2 of the State Lottery Act accordingly.

The amendment was read and was adopted by a viva voce vote.

Senator Harris of Dallas offered the following amendment to the bill:

Floor Amendment No. 23

Amend C.S.H.B. 54 by inserting a new Subsection (j) after line 43 on page 4 to read as follows:

(j) The comptroller shall make an annual report to the governor and legislature that includes a study of and suggested changes in the operation of the lottery to promote the pari-mutuel racing industry and minimize any negative effect on the pari-mutuel industry.

The amendment was read.

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Armbrister, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Krier, Lyon, Moncrief, Montford, Parker, Rosson, Whitmire, Zaffirini.

Nays: Barrientos, Brown, Harris of Dallas, Henderson, Leedom, Lucio, Ratliff, Sibley, Sims, Tejeda, Truan, Turner.

Absent: Johnson.

Senator Harris of Dallas offered the following amendment to the bill:

Floor Amendment No. 24

Amend C.S.H.B. 54 by inserting a new Paragraph (17) after line 53 on page 3 to read as follows and renumbering Paragraph (17) as "(18)":

"(17) the utilization of horse or dog races conducted pursuant to the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), including, but not limited to, advertising, promoting, or conducting a lottery or as a basis for a lottery;"

The amendment was read.

On motion of Senator Montford, the amendment was tabled by a viva voce vote.

Senator Harris of Dallas offered the following amendment to the bill:

Floor Amendment No. 25

Amend C.S.H.B. 54 on page 9 as follows:

1. Strike lines 48 through 50 and renumber subsequent paragraphs accordingly.

2. Insert the words "other than a racetrack at which wagering is authorized under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes)" after the word "location" on line 58 of page 9.

The amendment was read.

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Armbrister, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Lyon, Moncrief, Montford, Parker, Rosson, Tejeda, Truan, Turner, Zaffirini.

Nays: Barrientos, Brown, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Lucio, Ratliff, Sibley, Sims, Whitmire.

(President in Chair)

Senator Harris of Dallas offered the following amendment to the bill:

Floor Amendment No. 26

Amend C.S.H.B. 54 by striking lines 48 through 50 on page 4 and substituting the following:

“(b) In this section, “sport event” means any professional or amateur sport, athletic game or contest, or race or contest involving machines, persons or animals, except horses or greyhounds on which pari-mutuel wagering is allowed under the Texas Racing Act (Article 179e, Vernon’s Texas Civil Statutes) that is viewed by the public.”

The amendment was read.

On motion of Senator Harris of Dallas and by unanimous consent, the amendment was withdrawn.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 27

Amend C.S.H.B. 54 by adding a new appropriately numbered subsection to Section 2.02 of the Act on page 4 to read as follows:

() The comptroller shall adopt rules prohibiting the operation of any game using a video lottery machine or machine. As used in this subsection, “video lottery machine” or “machine” means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, keno, and blackjack, utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash, coins or tokens, or that directly dispenses cash, coins, or tokens.

The amendment was read.

Senator Montford moved to table the amendment.

The motion to table was lost by the following vote: Yeas 7, Nays 22.

Yeas: Brooks, Glasgow, Krier, Moncrief, Montford, Parker, Rosson.

Nays: Armbrister, Barrientos, Bivins, Brown, Ellis, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Leedom, Lucio, Lyon, Ratliff, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Absent: Carriker, Dickson.

Question recurring on the adoption of Floor Amendment No. 27, the amendment was adopted by the following vote: Yeas 21, Nays 8.

Yeas: Armbrister, Barrientos, Bivins, Brown, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Leedom, Lucio, Lyon, Ratliff, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Brooks, Dickson, Ellis, Glasgow, Moncrief, Montford, Parker, Rosson.

Absent: Carriker, Krier.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 28

Amend C.S.H.B. 54 by adding a new subsection to Section 4.02, State Lottery Act, to read as follows:

() A person may not pay for a ticket with the proceeds of a check issued as a payment under the Aid to Families with Dependent Children program administered under Chapter 31, Human Resources Code.

The amendment was read and was adopted by a viva voce vote.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 29

Amend C.S.H.B. 54, Article 3, Sec. 3.02, by deleting Subsection (4)(B) on lines 51-53, page 9, and renumber the following subsections accordingly.

The amendment was read.

Senator Montford moved to table the amendment.

The motion to table was lost by the following vote: Yeas 14, Nays 17.

Yeas: Bivins, Brown, Carriker, Glasgow, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Moncrief, Montford, Sims, Truan, Zaffirini.

Nays: Armbrister, Barrientos, Brooks, Dickson, Ellis, Green, Haley, Harris of Tarrant, Lucio, Lyon, Parker, Ratliff, Rosson, Sibley, Tejeda, Turner, Whitmire.

Question recurring on the adoption of Floor Amendment No. 29, the amendment was adopted by the following vote: Yeas 16, Nays 15.

Yeas: Armbrister, Barrientos, Brooks, Dickson, Ellis, Green, Haley, Harris of Tarrant, Lucio, Parker, Ratliff, Rosson, Sibley, Tejeda, Turner, Whitmire.

Nays: Bivins, Brown, Carriker, Glasgow, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lyon, Moncrief, Montford, Sims, Truan, Zaffirini.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 30

Amend C.S.H.B. 54 as follows:

In the appropriate section add the following: The comptroller shall require any person seeking to contract for goods or services relating to the implementation and administration of this act to submit to competitive bidding procedures in accordance with rules established by the comptroller. Such procedures shall be for the purpose of insuring fairness and integrity.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

RECORD OF VOTES

Senators Brown, Green and Leedom asked to be recorded as voting "Nay" on the passage of the bill to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 54 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 54 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Lucio, Lyon, Moncrief, Montford, Parker, Rosson, Sims, Truan, Whitmire, Zaffirini.

Nays: Green, Leedom, Ratliff, Sibley, Tejeda, Turner.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 9.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Lucio, Lyon, Moncrief, Montford, Rosson, Sims, Truan, Whitmire, Zaffirini.

Nays: Brown, Green, Haley, Leedom, Parker, Ratliff, Sibley, Tejeda, Turner.

SENATE JOINT RESOLUTION 17 REREFERRED

On motion of Senator Barrientos and by unanimous consent, S.J.R. 17 was withdrawn from the Committee on Finance and rereferred to the Committee on Administration.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Haley and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Administration might consider the following bill and resolutions upon adjournment:

S.B. 23
S.J.R. 17
H.C.R. 33

CONGRATULATORY RESOLUTIONS

S.C.R. 25 - By Haley: Recognizing the members of the Shelby County 4-H Mounted Drill Team for their outstanding success in competitions since the team was first organized 16 years ago.

S.R. 257 - By Turner: Extending congratulations to Mr. and Mrs. Dan Beason of Thorndale on the occasion of their 50th wedding anniversary.

S.R. 258 - By Turner: Extending congratulations to Mr. and Mrs. Jess Akin of Brenham on the occasion of their 50th wedding anniversary.

S.R. 259 - By Turner: Extending congratulations to Mr. and Mrs. E. E. Harry of Gause on the occasion of their 50th wedding anniversary.

S.R. 260 - By Turner: Extending congratulations to Mr. and Mrs. Edgar Heinsohn of New Ulm on the occasion of their 60th wedding anniversary.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 9:34 p.m. adjourned until 11:00 a.m. tomorrow.

TWENTY-FOURTH DAY (Tuesday, August 13, 1991)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by Senator Brooks.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Absent-excused: Ratliff.

A quorum was announced present.

The Reverend Jack Burton, Woodlawn Baptist Church, Austin, offered the invocation as follows:

Eternal Father, give these men and women elected by the people of the State of Texas Your good blessing today. We pray that all of us here might not take ourselves too seriously, but that we would take seriously the business of good government. Help us to keep our priorities straight in all the issues that we face today.

Lord, these folks are tired. They have worked hard these past thirty days. My prayer for them is that they might be fresh of mind and body to finish this job today. And, if they have to come back for another special session, that they might have the simple energy to continue to do what we have called on them to do.

In our Lord's name we pray. Amen.

On motion of Senator Harris of Dallas and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Ratliff was granted leave of absence for today on account of illness in the family on motion of Senator Harris of Dallas.

CO-AUTHORS OF SENATE JOINT RESOLUTION 17

On motion of Senator Barrientos and by unanimous consent, Senators Brooks and Glasgow will be shown as Co-authors of S.J.R. 17.

CO-AUTHOR OF SENATE BILL 104

On motion of Senator Zaffirini and by unanimous consent, Senator Montford will be shown as Co-author of S.B. 104.